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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



In re: Patent Application of
Inventor: HANSEN, Peter, et al. New York, New York
22 September 2005
Serial No.: 10/779,486
Docket No.: 1100-074US
Filed: February 13, 2004
Title: SYSTEM FOR PROVIDING STEP OUT
COMMISSIONS AND COMPENSATION FOR
RESEARCH BROKERS
Art Unit:

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Attention: Steven N. Meyers – Special Program Examiner.
COMMISSIONER FOR PATENTS
P.O. BOX 1450
ALEXANDRIA, VIRGINIA 22313-1450.

**RENEWED PETITION UNDER 37 C.F.R. 1.181 – PETITION TO
WITHDRAW HOLDING OF ABANDONMENT.**

This petition for reconsideration is filed in response to the 'Decision on Petition to Withdraw the Holding of Abandonment' mailed July 25, 2005, dismissing the Petition to Withdraw Holding of Abandonment filed March 29, 2005 ("the previous petition").

The Examiner has stated that, under the terms of 1156 OG 53 (November 16, 1993), the showing required to establish non-receipt of an Office communication must include all of the following requirements:

- (1) A statement from the practitioner stating that the Office communication was not received by the practitioner;
- (2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and
- (3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

It is noted from the Examiner's Decision of July 25, 2005 that requirements (1) and (2) have been satisfactorily complied with. With regard to requirement (3), a copy of the docket record for the present application, including where the missing Office communication would have been entered had it been received, was filed with the Petition to Withdraw the Holding of Abandonment filed March 29, 2005, as Appendix I. A copy of Appendix I is attached to the instant petition. In filing the previous petition, it was my belief that Appendix I complied with the literal language of requirement (3). However, that submission did not include a print-out

of our firm's other cases with response due dates on or around July 13, 2004. The purpose of this submission is to more fully comply with requirement (3).

In the previous petition, Appendices II, III and IV were submitted as evidence in support of the position that all communications received from the Office are accurately and securely entered in both our electronic and physical docket systems. However, the Examiner has stated that the docket records indicated in requirement (3) must also include a copy of the list of all responses in the practitioner's office with the due date at and around July 13, 2004 specifically.

Accordingly, in order to supplement the previous petition and overcome the above noted deficiency, a rigorous and thorough search of the firm's physical and electronic docket records has been conducted for the month of July 2004. As a result all patent cases where a response was due on or around July 13, 2004 have been identified. The results of that search are attached hereto as Appendices V, VI, VII, VIII, IX, X, and XI, all of which are true and accurate copies of extracts from the firm's electronic docket database. The attached docket report is a complete and accurate list of all cases on our firm's docket with response due dates on or around July 13, 2004. That includes Responses to Notifications of Missing Parts, Responses to Office Actions and Issue Fee payment deadlines.

This search was conducted by Steven Sloan, the individual that created and maintains the firm's electronic docket system, and Dermot Sheridan, an associate of the firm, under my supervision.

Specifically, the docket report details the following cases, all with response due dates in or shortly before July 2004:

- Appendix V: Patent Application No.: 10/134,664 – Office Action response due July 7, 2004 (Continuation-in-Part application timely filed);
- Appendix VI: Patent Application No.: 10/653,605 – Office Action Response due July 8, 2004 (response timely filed June 3, 2004);
- Appendix VII: Japanese Patent Application No.: 06-525645 – Office Action response due July 13, 2004 (response timely filed July 11, 2004);
- Appendix VIII: Patent Application No.: 10/759,665 – Response to Notice of Missing Parts due: June 22, 2004 (response timely filed June 22, 2004);
- Appendix IX: Patent Application No.: 10/273,199 – Issue Fee due July 6, 2004 (Issue Fee timely paid June 17, 2004);
- Appendix X: Design Patent Application No.: 29/194,311 – Issue Fee due July 21, 2004 (Issue Fee timely paid July 7, 2004);
- Appendix XI: Patent Application No.: 10/364,445 – Response to Office Action due July 22, 2004 (Request for Continued Examination timely filed July 21, 2004).

In each of the above cases the appropriate action was taken in a timely fashion. Indeed, the present case is the only application that we are aware of in which the necessary action was not taken in the appropriate time frame.

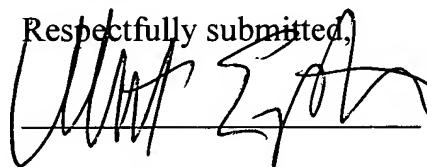
It is clear from the search of the electronic docket and the results of same, as well as my personal review of the physical docket back-up system during the months of April, May, June and July of 2004, coupled with the fact that no other cases on our docket have gone abandoned in this manner, that all Office communications with response due dates on or around July 13, 2004, had been accurately and diligently entered on our electronic docket database and in the physical docket back-up system. This is further evidenced by the fact that this firm has no history of filing petitions to revive in cases that went abandoned due to non-receipt of Office communications. It is therefore respectfully submitted that requirement (3), as set out previously and by the Examiner, has now been fully complied with.

It is further submitted that the accuracy of this firm's electronic docket database, coupled with our physical docket back-up system, acts as a highly effective tracking system or safety net (as described in detail in the previous petition), making it highly unlikely that any Notification to File Corrected Application Papers could have been received but improperly handled while in our possession.

Since receiving the Notice of Abandonment of February 9, 2005, the undersigned has obtained (via facsimile) a copy of the Notice to File Corrected Application Papers from the Office of Initial Patent Examination. In accordance with the requirement stated in the Notice to File Corrected Application Papers, a corrected set of drawings is enclosed with this petition.

In light of the foregoing, it is respectfully requested that the Notice of Abandonment dated February 9, 2005 be withdrawn.

Respectfully submitted,

 9/23/05

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